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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
MICHAEL J. KOONCE -)
MT. CARMEL ONLINE,)
)
Complainant,)
)
vs.) No. 03-0654
)
VERIZON NORTH, INC.,)
)
Respondent.)
)
Complaint as to service in)
Mt. Carmel, Illinois.)

Chicago, Illinois
March 18, 2004

Met, pursuant to adjournment, at 10:00 a.m.

BEFORE:

Mr. Glennon Dolan, Administrative Law Judge

APPEARANCES:

MR. MICHAEL J. KOONCE
1001 North Market Street
Mt. Carmel, IL
via telephone for complainant pro se;

1 APPEARANCES (cont.):

2 SONNENSCHNEIN, NATH & ROSENTHAL by
3 MS. SARAH A. NAUMER
4 233 South Wacker Drive
Suite 8000
Chicago, IL 60606
(312) 876-8000
5 for the respondent.

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21 SULLIVAN REPORTING COMPANY, by
Jean M. Plomin, CSR, RPR
22 License No. 084-003728

1 JUDGE DOLAN: By the power and authority of the
2 Illinois Commerce Commission, I call Case No.
3 03-0654, Michael J. Koonce, doing business as
4 Mt. Carmel Online, versus Verizon North, a complaint
5 concerning failure to repair or replace phone lines
6 in a timely manner in Mt. Carmel, Illinois.

7 Would the parties please identify
8 themselves for the record.

9 MS. NAUMER: Appearing on behalf of Verizon
10 North, Inc., Sarah Naumer and John Rooney of the law
11 firm Sonnenschein, Nath & Rosenthal, 8000 Sears
12 Tower, Chicago, Illinois, 60606.

13 JUDGE DOLAN: Mr. Koonce.

14 MR. KOONCE: This is Michael Koonce
15 representing Mt. Carmel Online in Mt. Carmel,
16 Illinois.

17 JUDGE DOLAN: Why don't you just go ahead and
18 give a street address for the record, okay?

19 MR. KOONCE: Say that one more time.

20 JUDGE DOLAN: Please give a street address for
21 the record.

22 MR. KOONCE: 1001 North Market Street,

1 Mt. Carmel, Illinois.

2 JUDGE DOLAN: Okay. So you've moved since you
3 filed your complaint?

4 MR. KOONCE: This is my office. That's not
5 where the lines were.

6 JUDGE DOLAN: Okay. The lines are at 129 Pekin
7 Avenue?

8 MR. KOONCE: Right, right.

9 JUDGE DOLAN: Okay. Let the record reflect no
10 other appearances.

11 Today we're here for status.

12 MR. KOONCE: Right.

13 JUDGE DOLAN: And, Mr. Koonce, I do realize
14 that you left me a message the other day concerning
15 your answers and responses to the data requests.

16 MR. KOONCE: Right.

17 JUDGE DOLAN: But under the rules, I'm really
18 not supposed to call you back and advise you one way
19 or the other on how to act. So that's why I
20 contacted Ms. Naumer and asked her to give you a call
21 to see if you would be able to work a resolution out
22 concerning that.

1 MR. KOONCE: Right. We tried. We spoke
2 yesterday. And she informed me that -- well, first
3 she informed me that they consider -- her and her
4 client considered my account, my claim frivolous and
5 that they would permit me two weeks to return the
6 data requests to them -- that they sent for me to
7 fill out and that they were going to object to any
8 requests for me to request data requests from them.
9 That's what we -- and, of course, I agree that we
10 disagreed. That was pretty much it.

11 JUDGE DOLAN: Okay. I'm trying to remember
12 from the last time. I did give the parties until
13 what date to initiate discovery?

14 MS. NAUMER: Your Honor, you did it somewhat
15 informally. As you know, this is our third status
16 hearing. The first status hearing occurred on
17 December 18th of 2003 at which time the parties were
18 instructed to issue their data requests to each
19 other.

20 Verizon did issue some to Mr. Koonce
21 which he claims he did not receive. We did not
22 receive any and I don't believe Mr. Koonce claims

1 that he sent any to Verizon at that time.

2 We had a second status hearing on
3 February 11th of 2004 at which time Verizon committed
4 to re-serve Mr. Koonce Verizon's discovery to
5 Mt. Carmel Online, and we did so on that very day via
6 three different means. We sent it to both his home
7 and his business address as well as via E-mail.

8 Once again at that same status hearing
9 Mr. Koonce was again instructed to serve Verizon with
10 any discovery he would have. Once again, he has
11 failed to act. He has not served us with anything.

12 So at this point in time given his
13 failure to serve Verizon via your Honor's order at
14 the last two status hearings, Verizon would object to
15 him serving Verizon with discovery at this point in
16 time. We feel that the deadline for doing so has
17 come and gone and Mr. Koonce has failed to act.

18 JUDGE DOLAN: Mr. Koonce.

19 MR. KOONCE: Well, I spoke with -- of course,
20 at the last hearing we had on February 11th, it was
21 discussed that -- and, of course, Mrs. Naumer just
22 referred to December 18th, how she sent -- how

1 Verizon sent data requests to me on December 18th and
2 I did not receive them.

3 And the implication that she made to
4 me yesterday is that I did receive them. And I asked
5 her whether or not she had a receipt confirmation
6 because the last one I signed for and I said, Do you
7 have anything, because to me it looks as they're
8 trying to make me look very bad on the situation --
9 on the situation on December 18th when I said that I
10 did not receive them. And I asked her to provide
11 proof that said that I did receive them.

12 So then yesterday what we discussed
13 was, I really don't see the need for why they would
14 request -- allow me to send any requests without --
15 while also at the same time objecting for me to
16 receive any data -- or to make any data requests to
17 them.

18 What I would like -- what I have done
19 with this, since this is the first formal complaint
20 that I've ever filed -- and, of course, I'm sure this
21 is not the first formal complaint that they've
22 actually had to deny or to fight -- what I would

1 request, your Honor, is that we could -- that I would
2 be allowed to have these two weeks to get the data
3 requests finished for Mrs. Naumer and for Mr. Rooney
4 and for Verizon and at the same time give me those
5 same two weeks to get them data requests in order to
6 request data from Verizon at the same time. And then
7 we would have approximately, you know -- they would
8 have approximately 30 days from those two weeks to
9 get data requests to me. And then, of course, I
10 would like to have a little bit of time to evaluate
11 them before we have the next hearing.

12 Since this is a status hearing, I
13 would really hope that in order to be objective for
14 this -- because this is really imperative that I
15 receive data requests from Verizon at the same time.
16 And it feels to me -- it seems to me anyway that
17 they've got me over a barrel on this situation here,
18 and I have worked on these data requests. I have
19 them in my hand even. She sent them to my office in
20 E-mail form, and then she sent them to my office in
21 Fed Ex, but she did not send them to my home because
22 I only have one copy. But I have these and some of

1 these are so repetitive, it's pathetic.

2 Of course, I have a telecom attorney
3 that I've retained for something else. And I've
4 discussed it with him. And of course he told me what
5 I should do is just -- the ones that are repetitive,
6 just refer to the other one. And Mrs. Naumer told me
7 that yesterday also, so that's what I'm prepared to
8 do to make it as complete as I can. And the ones
9 that are repetitive is just to refer to the other
10 questions because they sent me 30 data requests to
11 cover about three subjects.

12 MS. NAUMER: Your Honor, a couple of points.
13 There are two different issues that we're dealing
14 with on discovery. One is Mr. Koonce's responses to
15 the Verizon data requests. And I informed Mr. Koonce
16 yesterday and stand by it today that Verizon does not
17 object to granting him two more weeks to complete his
18 responses.

19 I have recognized that at the last
20 status hearing he claimed that he had not received
21 Verizon's data requests, so we did re-serve them. As
22 Mr. Koonce just acknowledged, he has received them on

1 February 11th. So he does have them. We are not
2 objecting to a two-week extension for him to provide
3 us with his responses to those.

4 The second issue, however, is entirely
5 different; and that is Mr. Koonce's service on
6 Verizon of his own discovery requests. And he has
7 had the last two opportunities -- at the last two
8 status hearings, he has been instructed to do so and
9 he has failed to take any action on that matter.

10 I heard a lot of him, you know,
11 indicating that, you know, he's a pro se plaintiff;
12 he doesn't have experience in this matter. But I
13 reviewed the transcript and, you know, at the last
14 two status hearings, your Honor, you instructed him
15 to refer to the Commission's rules of practice and
16 regulations in order to be able to participate in
17 these proceedings in accordance with the Commission's
18 regulations. And to the extent that Mr. Koonce, you
19 know, continues to be ignorant of the rules because
20 he has failed to do so, that is, once again, of his
21 own doing.

22 So Verizon would object at this point

1 in time. He has missed the deadline twice, and he
2 has failed to take any action on the second issue of
3 Mr. Koonce serving Verizon with his own discovery at
4 this point in time. We do not object to granting him
5 two weeks for him to respond to our discovery.

6 MR. KOONCE: Mr. Dolan?

7 JUDGE DOLAN: Yes.

8 MR. KOONCE: I would like to make a suggestion
9 as far as what she just said. First of all, I don't
10 understand why it is so time imperative for them to
11 pass this off the books without giving it a thorough
12 investigation.

13 I went through this with -- I spoke
14 with Mrs. Naumer yesterday and I went through this
15 with Mrs. Janet Karrenbrock, the regional supervisor
16 or regional director for Verizon, and they never even
17 offered to receive my complaint one time over at
18 consumer relations. And to me it seems that
19 Mrs. Naumer and Verizon are trying to ignore this
20 case.

21 But what I would be willing to do if
22 Mrs. Naumer and Mr. Rooney would be willing to do is,

1 is that if I don't provide the information -- if I
2 don't have this information finished for the next
3 time, I would be willing to allow them to request to
4 drop the case. But at this time I feel like we would
5 be going forward even though -- since this is a
6 status hearing, I thought we would be going to the
7 next hearing half-baked so to say because I would not
8 be able to provide -- I would not be able to have
9 full adequate information. And from what I
10 understand, you don't normally solve these cases
11 within three months or four months.

12 In some cases if the tables were
13 turned, Verizon, they can and they probably will,
14 whenever I get my data requests sent to them,
15 according to my attorney, he says they will probably
16 ask me -- send me more information and want me to
17 re-evaluate and discuss again, you know, one of my
18 data requests or things like that. This is an
19 ongoing thing.

20 But what I would be willing to do is
21 if I don't have them within two weeks, my response
22 and also my requests to them, and we have the next

1 hearing, I would be willing to let them drop it, and
2 I would be willing to put in for that. But I really
3 don't think that's going to happen. I feel like I'm
4 not going to have a very -- I won't have a more
5 adequate case if I'm not able to make requests from
6 them. And, of course, I know she keeps referring to
7 that, but then I refer -- I just request that a --
8 well, I wonder why they're in such a hurry for this
9 whenever they have nothing at stake for this and I'm
10 the one that has everything at stake for this.

11 JUDGE DOLAN: Okay. Mr. Koonce, I get you.

12 Counsel, I don't see that it's going
13 to be unreasonable to allow him an opportunity, so
14 I'm going to issue a ruling today that you do have
15 two weeks to respond to their discovery, and then you
16 also have two weeks to issue your data responses to
17 them. Now, if you don't, then I am going to bar.

18 MR. KOONCE: That's fine. I've already got
19 some of it finished.

20 JUDGE DOLAN: All right. And then I will give
21 them, under Commission rules, they have the 30 days
22 to respond. So two weeks from today is April 1st;

1 30 days from there would put us into May. May 1st is
2 on a Saturday, so how about we set a status for
3 May 13th?

4 MR. KOONCE: Okay.

5 MS. NAUMER: I believe that's good. Let me
6 just -- sorry, your Honor.

7 JUDGE DOLAN: That's all right.

8 And then on May 13th -- well, whenever
9 we set the next status date, we will either be ready
10 to proceed to hearing or, if the information is not
11 provided, I guess we'll be entertaining a motion to
12 dismiss.

13 MR. KOONCE: Right.

14 JUDGE DOLAN: May 13th okay, Counsel?

15 MS. NAUMER: It is with me, your Honor.

16 MR. KOONCE: It's fine with me too.

17 JUDGE DOLAN: Okay. So we will enter and
18 continue this matter until May 13, 2004, at
19 10:00 a.m.

20 Anything else?

21 MR. KOONCE: No, sir. That's fine with me.

22 JUDGE DOLAN: Then we will be entered and

1 continued until May 13th.

2 (Whereupon, the above-entitled
3 matter was continued to May 13,
4 2004, at 10:00 a.m.)

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